

REFERENCE TITLE: tax credit; charter school organizations

State of Arizona
House of Representatives
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2008

HB 2838

Introduced by
Representatives Yarbrough: Biggs, Clark, Crump, Driggs, Murphy, Nichols,
Senator Gould

AN ACT

AMENDING SECTIONS 43-222 AND 43-1021, ARIZONA REVISED STATUTES; AMENDING
TITLE 43, CHAPTER 10, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION
43-1089.03; RELATING TO INDIVIDUAL INCOME TAX CREDITS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 43-222, Arizona Revised Statutes, is amended to
3 read:

4 43-222. Income tax credit review schedule

5 Each year the joint legislative income tax credit review committee
6 shall review the following income tax credits:

7 1. In 2007, sections 43-1077, 43-1078, 43-1079, 43-1080, 43-1165,
8 43-1166, 43-1167 and 43-1169.

9 2. In 2008, sections 43-1074.01, 43-1081, 43-1168, 43-1170 and
10 43-1178.

11 3. In 2009, sections 43-1076, 43-1081.01, 43-1084, 43-1162 and
12 43-1170.01.

13 4. In 2010, sections 43-1075, 43-1075.01, 43-1079.01, 43-1087,
14 43-1088, 43-1090.01, 43-1163, 43-1163.01, 43-1167.01, 43-1175 and 43-1182.

15 5. In 2011, sections 43-1074.02, 43-1083, 43-1085, 43-1164 and
16 43-1183.

17 6. In 2012, sections 43-1073, 43-1086, 43-1089, 43-1089.01,
18 43-1089.02, 43-1090, 43-1176 and 43-1181.

19 7. IN 2013, SECTION 43-1089.03.

20 Sec. 2. Section 43-1021, Arizona Revised Statutes, is amended to read:

21 43-1021. Additions to Arizona gross income

22 In computing Arizona adjusted gross income, the following amounts shall
23 be added to Arizona gross income:

24 1. A beneficiary's share of the fiduciary adjustment to the extent
25 that the amount determined by section 43-1333 increases the beneficiary's
26 Arizona gross income.

27 2. An amount equal to the "ordinary income portion" of a lump sum
28 distribution that was excluded from federal adjusted gross income pursuant to
29 section 402(d) of the internal revenue code.

30 3. The amount of interest income received on obligations of any state,
31 territory or possession of the United States, or any political subdivision
32 thereof, located outside the state of Arizona, reduced, for tax years
33 beginning from and after December 31, 1996, by the amount of any interest on
34 indebtedness and other related expenses that were incurred or continued to
35 purchase or carry those obligations and that are not otherwise deducted or
36 subtracted in arriving at Arizona gross income.

37 4. Annuity income received during the taxable year to the extent that
38 the sum of the proceeds received from such annuity in all taxable years prior
39 to and including the current taxable year exceeds the total consideration and
40 premiums paid by the taxpayer. This paragraph applies only to those
41 annuities with respect to which the first payment was received prior to
42 December 31, 1978.

43 5. The excess of a partner's share of partnership taxable income
44 required to be included under chapter 14, article 2 of this title over the

1 income required to be reported under section 702(a)(8) of the internal
2 revenue code.

3 6. The excess of a partner's share of partnership losses determined
4 pursuant to section 702(a)(8) of the internal revenue code over the losses
5 allowable under chapter 14, article 2 of this title.

6 7. The amount by which the adjusted basis of property described in
7 this paragraph and computed pursuant to the internal revenue code exceeds the
8 adjusted basis of such property computed pursuant to this title and the
9 income tax act of 1954, as amended. This paragraph shall apply to all
10 property which is held for the production of income and which is sold or
11 otherwise disposed of during the taxable year, except depreciable property
12 used in a trade or business.

13 8. The amount of depreciation or amortization of costs of any capital
14 investment that is deducted pursuant to section 167 or 179 of the internal
15 revenue code by a qualified defense contractor with respect to which an
16 election is made to amortize pursuant to section 43-1024.

17 9. The amount of gain from the sale or other disposition of a capital
18 investment which a qualified defense contractor has elected to amortize
19 pursuant to section 43-1024.

20 10. Amounts withdrawn from the Arizona state retirement system, the
21 corrections officer retirement plan, the public safety personnel retirement
22 system, the elected officials' retirement plan or a county or city retirement
23 plan by an employee upon termination of employment before retirement to the
24 extent they were deducted in arriving at Arizona taxable income in any year.

25 11. That portion of the net operating loss included in federal adjusted
26 gross income which has already been taken as a net operating loss for Arizona
27 purposes or which is separately taken as a subtraction under the special net
28 operating loss transition rule.

29 12. Any nonitemized amount deducted pursuant to section 170 of the
30 internal revenue code representing contributions to an educational
31 institution which denies admission, enrollment or board and room
32 accommodations on the basis of race, color or ethnic background except those
33 institutions primarily established for the education of American Indians.

34 13. The amount paid as taxes on property in this state with respect to
35 which a credit is claimed under section 43-1078.

36 14. Amounts withdrawn from a medical savings account by the individual
37 during the taxable year computed pursuant to section 220(f) of the internal
38 revenue code and not included in federal adjusted gross income.

39 15. Any amount of agricultural water conservation expenses that were
40 deducted pursuant to the internal revenue code for which a credit is claimed
41 under section 43-1084.

42 16. The amount by which the depreciation or amortization computed under
43 the internal revenue code with respect to property for which a credit was
44 taken under section 43-1080 exceeds the amount of depreciation or

1 amortization computed pursuant to the internal revenue code on the Arizona
2 adjusted basis of the property.

3 17. The amount by which the adjusted basis computed under the internal
4 revenue code with respect to property for which a credit was claimed under
5 section 43-1080 and which is sold or otherwise disposed of during the taxable
6 year exceeds the adjusted basis of the property computed under section
7 43-1080.

8 18. The amount by which the depreciation or amortization computed under
9 the internal revenue code with respect to property for which a credit was
10 taken under either section 43-1081 or 43-1081.01 exceeds the amount of
11 depreciation or amortization computed pursuant to the internal revenue code
12 on the Arizona adjusted basis of the property.

13 19. The amount by which the adjusted basis computed under the internal
14 revenue code with respect to property for which a credit was claimed under
15 section 43-1074.02, 43-1081 or 43-1081.01 and which is sold or otherwise
16 disposed of during the taxable year exceeds the adjusted basis of the
17 property computed under section 43-1074.02, 43-1081 or 43-1081.01, as
18 applicable.

19 20. The deduction referred to in section 1341(a)(4) of the internal
20 revenue code for restoration of a substantial amount held under a claim of
21 right.

22 21. The amount by which a net operating loss carryover or capital loss
23 carryover allowable pursuant to section 1341(b)(5) of the internal revenue
24 code exceeds the net operating loss carryover or capital loss carryover
25 allowable pursuant to section 43-1029, subsection F.

26 22. Any amount deducted pursuant to section 170 of the internal revenue
27 code representing contributions to a school tuition organization, ~~or~~ a public
28 school **OR A CHARTER SCHOOL ORGANIZATION** for which a credit is claimed under
29 section 43-1089, ~~or~~ 43-1089.01 **OR 43-1089.03**.

30 23. Any amount deducted in computing Arizona gross income as expenses
31 for installing solar stub outs or electric vehicle recharge outlets in this
32 state with respect to which a credit is claimed pursuant to section 43-1090.

33 24. Any wage expenses deducted pursuant to the internal revenue code
34 for which a credit is claimed under section 43-1087 and representing net
35 increases in qualified employment positions for employment of temporary
36 assistance for needy families recipients.

37 25. Any amount deducted for conveying ownership or development rights
38 of property to an agricultural preservation district under section 48-5702
39 for which a credit is claimed under section 43-1081.02.

40 26. The amount of any depreciation allowance allowed pursuant to
41 section 167(a) of the internal revenue code to the extent not previously
42 added.

43 27. With respect to property for which an expense deduction was taken
44 pursuant to section 179 of the internal revenue code, the amount in excess of
45 twenty-five thousand dollars.

28. The amount of any deductions that are claimed in computing federal adjusted gross income representing expenses for which a credit is claimed under either section 43-1075 or 43-1075.01 or both.

29. The amount by which the depreciation or amortization computed under the internal revenue code with respect to property for which a credit was taken under section 43-1090.01 exceeds the amount of depreciation or amortization computed pursuant to the internal revenue code on the Arizona adjusted basis of the property.

30. The amount by which the adjusted basis computed under the internal revenue code with respect to property for which a credit was claimed under section 43-1090.01 and which is sold or otherwise disposed of during the taxable year exceeds the adjusted basis of the property computed under section 43-1090.01.

31. The amount of a nonqualified withdrawal, as defined in section 15-1871, from a college savings plan established pursuant to section 529 of the internal revenue code that is made to a distributee to the extent the amount is not included in computing federal adjusted gross income, except that the amount added under this paragraph shall not exceed the difference between the amount subtracted under section 43-1022 in prior taxable years and the amount added under THIS section ~~43-1021~~ in any prior taxable years.

Sec. 3. Title 43, chapter 10, article 5, Arizona Revised Statutes, is amended by adding section 43-1089.03, to read:

43-1089.03. Credit for contributions to charter school organizations; definitions

A. A CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY THIS TITLE FOR THE AMOUNT OF VOLUNTARY CASH CONTRIBUTIONS MADE BY THE TAXPAYER DURING THE TAXABLE YEAR TO A CHARTER SCHOOL ORGANIZATION, BUT NOT EXCEEDING:

1. TWO HUNDRED DOLLARS IN ANY TAXABLE YEAR FOR A SINGLE INDIVIDUAL OR A HEAD OF HOUSEHOLD.

2. FOUR HUNDRED DOLLARS IN ANY TAXABLE YEAR FOR A MARRIED COUPLE FILING A JOINT RETURN.

B. A HUSBAND AND WIFE WHO FILE SEPARATE RETURNS FOR A TAXABLE YEAR IN WHICH THEY COULD HAVE FILED A JOINT RETURN MAY EACH CLAIM ONLY ONE-HALF OF THE TAX CREDIT THAT WOULD HAVE BEEN ALLOWED FOR A JOINT RETURN.

C. IF THE ALLOWABLE TAX CREDIT EXCEEDS THE TAXES OTHERWISE DUE UNDER THIS TITLE ON THE CLAIMANT'S INCOME, OR IF THERE ARE NO TAXES DUE UNDER THIS TITLE, THE TAXPAYER MAY CARRY THE AMOUNT OF THE CLAIM NOT USED TO OFFSET THE TAXES UNDER THIS TITLE FORWARD FOR NOT MORE THAN FIVE CONSECUTIVE TAXABLE YEARS' INCOME TAX LIABILITY.

D. THE CREDIT ALLOWED BY THIS SECTION IS IN LIEU OF ANY DEDUCTION PURSUANT TO SECTION 170 OF THE INTERNAL REVENUE CODE AND TAKEN FOR STATE TAX PURPOSES.

E. FOR THE PURPOSES OF THIS SECTION:

1. "CHARACTER EDUCATION PROGRAMS" MEANS A PROGRAM DESCRIBED IN SECTION 15-719.

1 2. "CHARTER SCHOOL ORGANIZATION" MEANS A CHARITABLE ORGANIZATION IN
2 THIS STATE THAT IS EXEMPT FROM FEDERAL TAXATION UNDER SECTION 501(c)(3) OF
3 THE INTERNAL REVENUE CODE AND THAT ALLOCATES AT LEAST NINETY PER CENT OF ITS
4 ANNUAL REVENUE TO CHARTER SCHOOLS LOCATED IN THIS STATE FOR THE SUPPORT OF
5 EXTRACURRICULAR ACTIVITIES OR CHARACTER EDUCATION PROGRAMS OF THE CHARTER
6 SCHOOLS.

7 3. "EXTRACURRICULAR ACTIVITIES":

8 (a) MEANS SCHOOL SPONSORED ACTIVITIES THAT REQUIRE ENROLLED STUDENTS
9 TO PAY A FEE IN ORDER TO PARTICIPATE, INCLUDING FEES FOR:

10 (i) BAND UNIFORMS.

11 (ii) EQUIPMENT OR UNIFORMS FOR VARSITY ATHLETIC ACTIVITIES.

12 (iii) SCIENTIFIC LABORATORY MATERIALS.

13 (iv) IN-STATE OR OUT-OF-STATE TRIPS THAT ARE SOLELY FOR COMPETITIVE
14 EVENTS.

15 (b) DO NOT INCLUDE ANY SENIOR TRIPS OR EVENTS THAT ARE RECREATIONAL,
16 AMUSEMENT OR TOURIST ACTIVITIES.

17 Sec. 4. Purpose

18 Pursuant to section 43-223, Arizona Revised Statutes, the legislature
19 enacts section 43-1089.03, Arizona Revised Statutes, as added by this act, to
20 encourage taxpayers to direct a portion of their taxes by contributing to
21 charter school organizations that support extracurricular activities and
22 character education programs of charter schools in this state.